SUPREME COURT, U. S.

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In the Supreme Court of the United States

OCTOBER TERM, [redacted] 1969

No. [redacted] 31

PAUL M. BROCKINGTON,

Appellant,

vs.

JAMES A. RHODES, GOVERNOR OF OHIO, *et al.*,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO.

BRIEF OF APPELLANT.

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In the Supreme Court of the United States

No. 921.

OCTOBER TERM, 1968.

STATE OF OHIO *ex rel.* PAUL M. BROCKINGTON,

Relator,

vs.

JAMES A. RHODES, *et al.*,

Respondents.

ON APPEAL FROM THE SUPREME COURT OF OHIO.

BRIEF OF APPELLANT.

OPINIONS IN THE COURTS BELOW.

Neither the Supreme Court of Ohio nor the Court of Appeals for the Eighth Judicial District of Ohio issued an opinion. A copy of the Journal Entry filed in each court is set forth in the Appendix. (A. 29, 31)

The opinion of the Court of Common Pleas of Cuyahoga County, Ohio has not been published. It is set forth in the Appendix. (A. 25-27)

JURISDICTION.

The appellant filed this appeal to seek review of the judgment of the Ohio Supreme Court entered on October 23, 1968 dismissing appellant's appeal. Appellant claims that his rights were violated contrary to the First and Fourteenth Amendments to the Constitution of the United States. Notice of appeal was filed with the Ohio Supreme Court on January 6, 1969.

The jurisdiction of this Court is invoked under Title 28, United States Code, Sections 1257 and 2101. The Court's jurisdiction is sustained by *Williams v. Rhodes*, 393 U.S. 23 (1968).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

United States Constitution.

Amendment I:

> Congress shall make no law * * * abridging the freedom of speech * * *

Amendment XIV:

> * * * nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Ohio Revised Code.

Section 3513.257:

> The nominating petition of an independent candidate for the office of representative to the general assembly, senator of the general assembly, and district representative to congress, shall be signed by not less than seven per cent of the number of electors who voted for governor at the next preceding regular state election for the office of governor in the district. The nominating petition of independent candidates for the office of judge of the court of appeals shall be signed by qualified electors not less in number than seven per cent of the number of electors who voted for governor at the next preceding regular state election in the territory over which such court has juris-

diction, or twenty-five hundred electors, whichever is the lesser number.

No such nominating petition shall be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. If the district consists of more than one county, such petition shall contain the signatures of at least fifty electors from each of at least one-half of the several counties of such district. Such petition shall be filed with the board of elections of that county or part of a county within the district which had a population greater than that of any other county or part of a county within the district according to the last federal decennial census, not later than four p.m. of the ninetieth day before the first Tuesday after the first Monday in May immediately preceding such general election.

(Additional Ohio statutes relevant here are in Appendix 5 to this brief.)

QUESTIONS PRESENTED FOR REVIEW.

1. In view of the holding of this Court in *Williams v. Rhodes*, 393 U.S. 23 (1968), which invalidated those Ohio Election Laws which operated to exclude third parties and independent candidates from Ohio's election process, is not the seven percent statute attacked here already rendered void as unconstitutional?

2. Where the participation of independent candidates in a state's electoral process is neither substantial nor disruptive under a statute requiring independent candidates to file nominating petitions containing signatures equal in number to *one percent* of those who last voted for gover-

nor in the district, can a State constitutionally revoke the one percent statute and impose in its stead a *seven percent* requirement?

3. Can a state constitutionally erect high and virtually insurmountable barriers to keep independent candidates off the ballot while at the same time it permits party candidates to qualify with ease without denying the former equal protection of the laws?

STATEMENT OF THE CASE.

PART I. THE PARTICULAR FACTS OF APPELLANT'S CASE.

Appellant was an independent candidate for the United States House of Representatives from the Twenty-First Congressional District of Ohio in the November, 1968 election. (A. 1, 20, 21; R. 18, 19) To obtain a place on the Ohio ballot he filed nominating petitions proper in all respects save one: his petitions did not contain the number of signatures required by Section 3513.257, Ohio Revised Code. (Hereafter this statute is often called the "seven per cent statute.") (A. 5, 9, 16, 17; R. 10, 11, 12)

That statute requires an independent candidate for Congress to file signatures equal in number to seven per cent of the votes cast for governor in the Congressional District in the last gubernatorial election. In appellant's case this was 5,974 signatures. (A. 5, 9, 16, 17; R. 10, 11, 12)

Appellant submitted 899 valid signatures. (A. 5, 9, 16, 17; R. 10, 11, 12) This would have been sufficient under the previous Ohio law which had been in effect for *over 60 years* and which required independent candidates to file *one* percent in order to qualify for the ballot. (See Section 4785-91, Ohio General Code before amendment in 1952.)

After the Board of Elections of Cuyahoga County refused his petitions, appellant filed suit for a writ of mandamus in the Court of Common Pleas of Cuyahoga County, Ohio. (A. 2 *et seq.*) He asked the Court to hold Section 3513.257, Ohio Revised Code, unconstitutional and void. (A. 5) In his initial pleading he alleged in part:

> 15. Relator says that unless he is duly certified an independent candidate for United States House of Representatives from the Ohio Twenty-First Congressional District, his fundamental constitutional rights will be abridged, to wit:
>
> * * * * *
>
> b. His right to Equal Protection of the Laws guaranteed by Amendment XIV of the United States Constitution, a right abridged by the seven percent requirement for independent candidates set forth in Section 3513.257 of the Ohio Revised Code.
>
> c. His right to Due Process of Law guaranteed by Amendment XIV of the United States Constitution but vitiated by the imposition of restrictive and repressive electoral legislation designed to prevent independent candidates from seeking political office in Ohio and devised to disfranchise independent voters who are unwilling to vote for the party candidates.
>
> d. His right to free speech as a duly qualified political candidate for office, guaranteed by Amendment I of the United States Constitution. (A. 6, 7)

The case was heard on the merits and at its conclusion the Court of Common Pleas defined the issues as follows:

> There is no question in the Court's mind, I don't think as far as the evidence is concerned, that the Relator, Paul M. Brockington, is qualified as far as the Constitution goes for holding such an office. The question primarily is one whether the legislative provision for seven per cent is properly within the police

powers of the Legislature and whether—what is the effect if the Court determines that this is an unreasonable and exorbitant requirement and what is the Court's duty with respect to the proceedings in mandamus. (A. 24, R. 24)

The Court of Common Pleas denied the writ of mandamus with opinion (A. 25, 26, 27). Appellant's constitutional claims were raised again on appeal as assignments of error. Nevertheless, and despite the fact that the court had before it the decision of the three judge court in *Socialist Labor Party v. Rhodes*, 290 F.Supp. 983 (1968), the Court of Appeals affirmed the Court of Common Pleas without opinion. (A. 29)

Further appeal was duly taken to the Ohio Supreme Court. On October 16, 1968 counsel for the appellant brought this Court's decision in *Williams v. Rhodes*, 393 U.S. 23 (1968), to the attention of that court. Nevertheless, on October 23, 1968, the Ohio Supreme Court dismissed appellant's appeal *sua sponte* "for the reason that no substantial constitutional question exists herein." (A. 31)

PART II—THE HISTORICAL CONTEXT IN WHICH THIS CASE ARISES.

As we pointed out in Part I of this Statement of Facts, for sixty some years the 1% signatures the appellant secured would have been sufficient. But in 1968 the law required him to obtain the staggering total of 5,974 signatures.[1] The following Ohio election history reveals the full significance of this increase and the effect it has had on the whole of the election process in Ohio.

---

[1] In Ohio's 23rd Congressional District the requirement would have been even higher; 10,281 signatures. (This figure is arrived at by computation from official Board of Election statistics. (A. 19, R. 15).)

Historically Ohio's election laws permitted independent candidates for public office to qualify for a position on the ballot by filing nominating petitions containing a prescribed number of signatures of registered and qualified voters. An 1892 statute, 89 Ohio Laws 434, Section 7, set the standard as "one for every one hundred persons who voted at the next preceding general election in the state or such district or division * * *." This one percent requirement remained constant until January 1, 1952.[2] Effective that date, the Ohio Legislature amended Section 4785-91 of the Ohio General Code to compel independents to secure and file valid signatures totalling at least *seven* percent of the number of votes cast for governor in the district in which they sought to run. This seven percent requirement was incorporated into Sections 3513.257 and 3513.258 of the Ohio Revised Code, effective August 20, 1957 and January 1, 1954 respectively.

Ohio's experience under the former one percent statute is particularly instructive. The central fact is that even before 1952 relatively few candidates for political office chose to carry a banner not hoisted by the Democratic or Republican parties.

Many, if not most, of the "independents" aspiring to public office were in fact members of third political parties. They qualified for the ballot under the one percent requirement for independents and were permitted to list their party designation.[3] In this way they circumvented

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[2] See Ohio Revised Statute 2966-20 in Bates, Ohio Revised Statutes 2nd through 6th editions; Ohio General Code Section 4999; and Ohio General Code Section 4785-91.

[3] A 1930 opinion of the Ohio attorney general, No. 1855, held that only the candidates of recognized political parties in Ohio could legally designate their party affiliation on the ballot. The ruling was ignored. Third party candidates continued to qualify for the ballot and were identified by party, all under the provision of the Code regulating independents.

the prohibitive tests for party recognition established by Section 4785-61 of the General Code and incorporated in Section 3517.01 of the Ohio Revised Code.[4]

During the first three decades of the 20th Century, an average of three independent (i.e., neither Democratic nor Republican) candidates appeared on the ballot vying with representatives of the two major political parties for state and national office in each election.[5]

---

[4] The key requirement of this statute required the members of a new political party to file valid signatures equal in number to at least 15% of the votes cast for governor in the state in the preceding gubernatorial election. The law was declared unconstitutional by this Court in *Williams v. Rhodes*, 393 U.S. 23 (1968).

[5] See Appendix 1 to this brief. The statistics reproduced there are from Ohio Election statistics, which are compiled and issued by Appellee Ted W. Brown as Ohio's Secretary of State. The Appellee members and director of the Cuyahoga County Board of Elections have objected to our use of these statistics. For the following reasons, the objection is not well taken:

a. Ohio law requires the Secretary of State to publish biennially a compilation of the state's election statistics. Section 111.12, Ohio Revised Code.

b. These statistics are subject to judicial notice. *Meck v. Board of Deputy State Supervisors*, 111 Ohio St. 203, 145 N.E. 28, 30 (1924): ["The annual [election] reports published by the Secretary of State * * * are public general information of which the court may take judicial notice."]

c. The accuracy of these statistics has never been questioned. Indeed, the appellee Secretary of State has never questioned their use.

d. The appellees, insistence on asserting technical evidentiary and non-constitutional objections in this Court reveals their unfamiliarity with 28 USC § 2111. Appellees have never claimed prejudice.

e. These statistics have been brought to the attention of each court that has considered the case. A copy of the volume was filed with the trial judge the day before trial. Another copy was given to the Court of Appeals for the convenience of that court and that volume is part of the record certified to this court.

On the Congressional level during the decade of the 1930's, the frequency of independent candidacies is shown as follows:

Year	*Number of independent candidates in Ohio's 25 Congressional Districts*
1930	2
1932	13
1934	(no record available from Secretary of State)
1936	11
1938	1

See Appendix 2 to this brief.[6]

During the 1940's there was a sharp diminution of independent candidates for Congress as well as for state and national office. The decrease is graphically demonstrated by these figures:

Year	*Number of independent candidates in Ohio's 25 Congressional Districts*
1940	1
1942	2
1944	1
1946	2
1948	1[7]
1950	2

On the state level only the Socialist Labor Party's candidate for governor in 1946[8] and a slate of presidential electors pledged to Progressive Party candidate Henry

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[6] The statistics above and in Appendix 2 to this brief were gleaned from the official records of the appellee Secretary of State (see his letter of July 30, 1968 which is a part of Appendix 2) and filed with the trial and appellate court as appendices to the briefs filed with those courts. See also fn. 5, *supra*.

[7] See fns. 5 and 6, *supra*.

[8] See Appendix 1 to this brief.

Wallace in 1948 [9] appeared on the Ohio ballot in the 1940's to compete with the candidates of the recognized political parties.

This latter event, the Wallace candidacy, was destined to precipitate momentous changes in Ohio's election laws. The 1948 presidential election was exceedingly close in Ohio with President Harry S. Truman capturing the state by a scant 7,107 votes out of a total of 2,898,474 cast for the two major party candidates.[10] Only 37,596 Ohioans pulled the lever for Henry Wallace but the election proved that a third candidate on the ballot, even though lacking appreciable popular support, could decisively influence the outcome of the election. The Ohio legislature's response to the situation was to change several sections of the election code to prevent that possibility from occurring again.

The changes are most cogently described in Judge Kinneary's separate concurring and dissenting opinion in *Socialist Labor Party v. Rhodes*, 290 F. Supp. 983 (S.D. Ohio 1968). He pointed out that:

> During the fifteen year period prior to 1947, participation in the electoral process by independently nominated candidates was neither substantial nor disruptive. Nevertheless in that year the Ohio General Assembly began a series of changes in the election laws which ultimately resulted in the complete elimination of independent and third party voters and candidates from Ohio's political arena.
>
> * * *
>
> Following (the complete elimination of independent candidacies for president) the Ohio General

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[9] See *State ex rel. Beck v. Hummel*, 150 Ohio St. 127, 80 NE 2d 899 (1948).

[10] See Appendix 1 to this brief.

Assembly raised the percentage requirement for nominating petitions of independent candidates for all other state and national offices from one (1) per cent to seven (7) per cent and required that the petitions be filed (90) days before the primary election rather than sixty (60) days before the general election. 290 F. Supp. at 994.

The results were predictable. *Not a single independent or third party candidate for a statewide or national office appeared on the Ohio ballot subsequent to 1948.*[11] The congressional picture was not too different:

Year	*Number of independent candidates in Ohio's 25 (or 26) Congressional Districts*
1952	1
1954	1
1956	0
1958	0
1960	0
1962	1
1964	0
1966	0
1968	0[12]

It was this virtual total elimination of competition by the two major political parties that led Judge Kinneary to comment: "The 'two party system' is not a cliche in Ohio, but a statutorily enforced fact." *Socialist Labor Party v. Rhodes*, 290 F. Supp. at 995.

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[11] At least until 1968 when this Court ordered George Wallace's name added to the Ohio presidential ballot. *Williams v. Rhodes, supra.*

[12] For the 1968 statistics see Appendix 3 to this brief which contains a letter and report of the appellee Secretary of State.

ARGUMENT.

I.

THE SEVEN PERCENT STATUTE IN ISSUE HERE, SECTION 3513.257 OF THE OHIO REVISED CODE, HAS ALREADY BEEN HELD UNCONSTITUTIONAL AND VOID BY THIS COURT IN WILLIAMS v. RHODES, 393 US 23 (1968).

Both majority and dissenting opinions of the three judge district court in *Socialist Labor Party v. Rhodes*, 290 F. Supp. 983 (S. D. Ohio 1968) specifically adverted to the increase in the required number of signatures for independent candidates from one to seven percent as one of several changes in Ohio's election laws adopted by the legislature in the aftermath of the Henry Wallace candidacy. 290 F. Supp. at 989, 994.

In affirming that decision with modification, this Court speaking through Mr. Justice Black concluded:

> [H]ere the *totality* of the Ohio restrictive laws taken as a whole imposes a burden on voting and associational rights which we hold is an invidious discrimination, in violation of the Equal Protection Clause. (Emphasis added) *Williams v. Rhodes*, 393 U.S. 23, 34 (1968).

Mr. Justice Harlan, concurring, understood the Court's decision as "striking down Ohio's statutory scheme *in its entirety*." (Emphasis added.) 393 U.S. at 46.

Thus it appears that the issue now before the Court has already been settled by it. Since the seven percent statute for independents was an integral part of Ohio's "statutory scheme" for perpetuating and protecting the two party political monopoly, it was stricken along with Ohio's other repressive election laws in *Williams v. Rhodes, supra.*

If, however, the seven percent statute is not already void, it is clear it cannot withstand constitutional challenge. The following makes this clear.

II.

THE SEVEN PERCENT STATUTE ABRIDGES FUNDAMENTAL RIGHTS. THESE RIGHTS ARE PROTECTED AGAINST ABRIDGMENT BY THE STATES BY THE FIRST AND FOURTEENTH AMENDMENTS.

A. The Fundamental Rights Abridged Here.

This case deals "with matters close to the core of our constitutional system." *Carrington v. Rash*, 380 US 89, 96 (1965). At issue is the exercise of "different, although overlapping" rights, *Williams v. Rhodes*, 393 US 23, 30 (1968). Broadly speaking they are the right to cast an effective ballot and the right to exercise fully the First Amendment rights of free association and speech. In our system of self-government these rights are inextricably related.

1. The Right to Cast an Effective Ballot.

This Court has said the right to vote is "preservative of all rights." *Yick Wo v. Hopkins*, 118 US 356, 370 (1886). Certainly our political direction from our founding as a nation has been toward the freest and fullest exercise of that right that is possible.

We said in our Declaration of Independence that to secure certain blessings:

> * * * Governments are instituted among Men, deriving their just powers from the consent of the governed.

And we began our constitution in this way:

> *We the people* of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, *do ordain and establish this Constitution for the United States of America.* (Emphasis added.)

These ideals and declarations were not fully realized then and are not realized now. But our direction is clear and our progress toward the good unmistakable.

Thus since adopting our constitution, we have provided that the right to vote "shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude." (Amendment XV, U.S. Constitution.) And we have decided that Senators should be elected directly (Amendment XVII, U.S. Constitution); that women should have equal access to the ballot (Amendment XIX, U.S. Constitution); and that neither the United States nor any state may abridge or deny the vote "by reasons of failure to pay any poll tax or other tax." (Amendment XXIV, U.S. Constitution.)

And the Congress, too, has moved to guarantee these rights. Most recently it has done so in the Voting Rights Act of 1965. (42 USC § 1973). See *Katzenbach v. Morgan*, 384 U.S. 641 (1966).

Because "the right to vote freely for the candidates of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government," *Reynolds v. Sims*, 377 U. S. 533, 555 (1964), this Court has been resolute in protecting that right. It has protected it against "sophisticated as well as simple-minded modes of discrimination," *Lane v. Wilson*; 307 U. S. 268, 275 (1939) observing that "[c]onstitutional rights would be of little value if they could be * * * indirectly denied," *Smith v. Allwright*, 321 U. S. 649, 664 (1944), or "manipulated out of existence," *Gomillion v. Lightfoot*, 364 U. S. 339, 345 (1960).

Thus, the right to vote may not be denied outright through the so-called "grandfather clauses," *Guinn v. United States*, 238 U. S. 347 (1915); *Lane v. Wilson*, 307 U. S. 268 (1939); or through racially restricted primaries,

Nixon v. Herndon, 273 U. S. 536 (1927); *Nixon v. Condon*, 286 U. S. 73 (1932); *Smith v. Allwright*, 321 U. S. 649 (1944). Neither may it be gerrymandered out of existence, *Gomillion v. Lightfoot*, 364 U. S. 339 (1960); burdened by a poll tax, *Harman v. Forssenius*, 380 U. S. 528 (1965); or diluted by malapportioned districts, *Wesberry v. Sanders*, 376 U. S. 1 (1964); *Reynolds v. Sims*, 377 U. S. 533 (1964); *Avery v. Midland County*, 390 U. S. 474 (1968). The integrity and sanctity of the individual ballot is protected against alteration, *United States v. Classic*, 313 U. S. 299 (1941), and dilution by stuffing of the ballot box, *United States v. Saylor*, 322 U. S. 385 (1944).

It has lately been made clear that the states may not deny the opportunity to cast a ballot on a "write in" basis, *Socialist Labor Party v. Rhodes*, 290 F. Supp. 983 (S. D. Ohio 1968) nor may they make it virtually impossible for any party other than the Republican and Democratic parties to qualify for the ballot. *Williams v. Rhodes*, 393 U. S. 23 (1968). Such a denial unconstitutionally burdens "the right of qualified voters, regardless of their political persuasion, to cast their votes effectively." 393 U. S. at 30.

This case brings before this Court an abridgment of the right to vote no less serious than any of those above. Ohio has made the ballot the virtually exclusive preserve of the majority parties. Its message and meaning are clear: run as a party candidate or run not at all.

2. The First Amendment Rights Abridged Here.

a. The Right of Free Association.

It is beyond dispute at this date that freedom of association is protected by the First Amendment. *NAACP v. Button*, 371 U. S. 415 (1963); *Bates v. Little Rock*, 361 U. S. 516 (1960); *NAACP v. Alabama*, 357 U. S. 449

(1958). Equally certain is it that this right is included in those rights protected by the Fourteenth Amendment against action by the States. *New York Times v. Sullivan*, 376 U. S. 254 (1964).

In our society primary reasons for association are the advancement of political ideas and the attainment of political goals. Whether this is done through membership in the formal, enduring structure of a political party or through enlistment in the cause of an "independent" candidate, the basic process is the same: united, collective action for political purposes is undertaken.

Whether these campaigns have any chance of success or not is not important. Perhaps to many in his district appellant's campaign would have seemed quixotic. Nevertheless he and his supporters were denied the opportunity to fully participate in our political process.

What Ohio has done here may not seem to be a direct abridgment of associational rights. Yet Ohio has taken from appellant and others no less than the opportunity to contest meaningfully in the political arena *and it is the contest that gives substance to the right to associate*. As this court said while speaking of political parties:

> The right to form a party for the advancement of political goals means little if a party can be kept off the election ballots and thus denied an equal opportunity to win votes. *Williams v. Rhodes*, 393 U. S. 23, 31 (1968).

b. The Right of Free Speech.

"[T]he great, the indispensable democratic freedoms secured by the First Amendment" hold a "preferred place" in our scheme of government. *Thomas v. Collins*, 323 U.S. 516, 530 (1945). This doubtless proceeds from the concept that freedom of thought and speech are "the matrix,

the indispensable condition, of nearly every other form of freedom" *Palko v. Connecticut*, 302 U.S. 319, 327 (1937).

This concept rests on the idea that democratic government requires that all points of view must be expressed. It assumes that even error has value since it helps reveal the truth in its full dimension. Its classic statement is in John Stuart Mill's essay *On Liberty*.

Indeed, for some the essential meaning of the First Amendment is that it protects all political thought and expression. MEIKLEJOHN, *Political Freedom*, Oxford University Press, New York (1965). And while the courts have not so limited the reach of the amendment, nevertheless this facet has been emphasized:

> The maintenance of the opportunity for free political discussions to the end that government may be responsive to the will of the people and that changes may be obtained by lawful means, an opportunity essential to the security of the Republic, is a fundamental principle of our constitutional system. *Stromberg v. California*, 28 U. S. 359, 369 (1931).

Therefore, the amendment:

> rests on the assumption that the wildest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public * * *. *Associated Press v. United States*, 326 U.S. 1, 20 (1944)

For these reasons and because "speech concerning public affairs is more than self-expression; it is the essence of self-government," *Garrison v. Louisiana*, 379 U.S. 64, 75 (1964), this Court has been quick to protect the opportunity for the expression of all points of view.

Thus, the high office and purpose of the amendment requires that "unorthodox ideas, controversial ideas, even

ideas hateful to the prevailing climate of opinion" be protected. *Roth v. United States*, 354 U.S. 476, 484 (1957). Even speech that stirs unrest or discontent must be allowed unless a clear and present danger of a substantial evil is shown to be imminent. *Edwards v. South Carolina*, 372 U.S. 229 (1963); *Terminiello v. Chicago*, 337 U.S. 1 (1949).

Criticism of official conduct is protected. *Garrison v. Louisiana*, 379 U.S. 64 (1964); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Bridges v. California*, 314 U.S. 252 (1941). In turn officials are protected so that they "be given the widest latitude to express their views on issues of policy." *Bond v. Floyd*, 385 U.S. 116, 136 (1966).

This brief sketch of some of the contours of the First Amendment's protection of speech makes clear the vital loss here. The arena for public discussion of issues and programs has been narrowed. The loss to the public cannot be measured, for discussion suppressed is lost forever.

B. The Protection Extended by the Due Process Clause of the Fourteenth Amendment.

In *Williams v. Rhodes*, 393 U.S. 23 (1968) this Court pointed out that exclusion from the ballot infringed the fundamental rights described above. It then specifically adopted the following test to determine whether such abridgments may survive constitutional challenge:

> "Only a compelling state interest in the regulation of a subject within the state's constitutional power to regulate can justify limiting First Amendment freedoms." *NAACP v. Button*, 371 U.S. 415 at 438 (1963), 393 U.S. at 31.

Applying that test, the Court concluded that:

> The state has here failed to show any "compelling interest" which justifies imposing such heavy burdens on the right to vote and to associate. 393 U.S. at 31.

The same conclusion is appropriate here.

From the beginning of this case appellant has called upon the appellees to offer any explanation or justification they may have for the seven per cent statute in light of Ohio's election history. No justification has ever been offered.

A justification that has occasionally been offered elsewhere is the so-called "bed-sheet" ballot. Of course, Ohio's history shows this would be a "strawman" argument here. And in any event, a plethora of candidates never seems to disturb Ohio's legislators if the candidates are competing in a party primary. In the 21st Congressional District where appellant sought to run last year, there were no fewer than 14 candidates in the Democratic Party primary. (Appendix 4 to this brief).

Lacking, therefore, any answer to the constitutional challenges mounted by the appellant here, the appellees have resorted to niggling, carping types of attack, hoping apparently to obfuscate the issue. Thus, the state appellees have sought to excise one strand of appellant's argument and misrepresent it as our whole case. They did this most recently in their Motion to Dismiss our appeal to this Court. The claim is made there that appellants' whole case rests on the discrepancy between the requirements for party candidates and independent candidates. This brief amply demonstrates that this is only a part of our case.

The appellee members and director of the Board of Elections on the other hand have not come even that close

to meeting the constitutional issues which permeate this case. Their first effort was a demurrer, but even after the Court of Common Pleas overruled it and held that the appellant had stated a cause of action, they refused to meet the issues. Indeed, since then, there has been a round of dreary complaints about where and how appellant filed his action,[13] that appellant had voted in the Democratic primary (even though Ohio law expressly allows this),[14] and about the manner in which Ohio's Election History has been brought to the attention of the courts below.[15]

We hope that finally in this Court the appellees will respond to these issues. Again we challenge them to offer a justification for Section 3513.257, Ohio Revised Code, if any there be.

III.

THE SEVEN PERCENT STATUTE ALSO DENIES APPELLANT THE EQUAL PROTECTION OF THE LAWS GUARANTEED BY THE FOURTEENTH AMENDMENT.

A. It Creates an Arbitrary and Capricious Classification, Invidiously Discriminatory Against the Appellant.

Ohio elections were conducted for at least 60 years under the one percent standard. The system worked well. Participation by independents in the state's electoral process "was neither substantial nor disruptive." *Social-*

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[13] Such complaints are groundless. The Ohio Revised Code specifically authorizes actions in mandamus. Section 2731.01, Ohio Revised Code. The jurisdiction to issue the writ is likewise specifically vested in Courts of Common Pleas, Section 2731.02, Ohio Revised Code.

It is well established in Ohio that mandamus is a proper remedy to challenge the constitutionality of a statute. *State ex rel. Selected Properties v. Gottfried*, 163 Ohio St. 469, 127 N.E. 2d 371 (1955). See 35 O. Jur. 2d *Mandamus* § 48, p. 300.

[14] Section 3513.19, Ohio Revised Code.

[15] See footnotes, 5, 6 and 7 *supra*.

ist Labor Party v. Rhodes, supra. The ballot was never unwieldy or overly burdened. Yet the legislature arbitrarily increased the requirement sevenfold. This was done not because the major parties had too many competitors but because they had *one*: Henry Wallace in 1948. Under these circumstances the higher requirement for independents must fall.

In *Schneider v. State*, 308 U.S. 147, 161 (1939) this Court said:

> In every case, therefore, where legislative abridgement of the rights is asserted, the courts should be astute to examine the effects of the challenged legislation.

The "effects" of the seven percent legislation are that independent candidates for office in Ohio have been wiped off the state's political map.

The right to vote (which necessarily embraces the companion right to run for office) is a fundamental political right that is "preservative of all rights." *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). Such a right cannot be circumscribed without showing a "compelling [state] interest" to justify the restriction. *Williams v. Rhodes, supra*. Ohio's one percent statute in itself provided an obstacle to completely free access to the ballot. The experience under that statute is sufficient to prohibit any higher figure being set:

> We have long been mindful that where fundamental rights and liberties are asserted under the Equal Protection Clause, *classifications which might invade or restrain them must be closely scrutinized and carefully confined*. (Emphasis added.)

Harper v. Virginia State Board of Elections, 383 U.S. 663, 670 (1966). Under the facts of this case, "carefully confined" means a ceiling of no more than the one percent.

Our Constitution protects the right of independents and third party candidates to participate freely in elections and experience proves that their activity adds a healthy ingredient to the nation's political life. *Sweezy v. New Hampshire*, 354 U.S. 234, 250-251 (1957). Certainly the involvement of independents cannot be short-circuited by a legislature composed exclusively of representatives of the two major political parties, which acts arbitrarily, capriciously, and repressively. There are, after all, limits to what a legislatively represented majority may do "at the expense of the dignity * * * of a minority." See Justice Jackson's concurring opinion, *Skinner v. Oklahoma*, 316 U.S. 535, 546 (1942).

The seven percent classification bears no reasonable relationship to any legitimate legislative purpose. *Gulf, Colorado & Santa Fe Ry. v. Ellis*, 165 U.S. 150 (1897). It is patently discriminatory against those Ohioans who choose to run for office independently of the recognized political parties. Such persons are denied Equal Protection of Law.

B. The Seven Percent Requirement Is Invidiously Discriminatory Against Appellant and Denies Him Equal Protection of Law Because It Imposes an Unreasonably Difficult Obstacle to His Becoming an Independent Candidate for Office Compared to the Ease With Which a Political Party Candidate Gains Access to the Ballot.

In Ohio a candidate running for Congress in a political party primary qualifies for the ballot by filing *100* valid signatures. Section 3513.05, Ohio Revised Code. Under the seven percent standard appellant needed 5,974 valid signatures. In the 23rd Congressional District he would have needed 10,281 valid signatures to be certified

for the ballot.[16] Thus for each valid signature the party candidate needs, the independent must secure *100*.

The disproportion is as obvious as it is odious. So long as the political aspirant sticks to the party organization, he qualifies for the ballot with ease. Once, however, the candidate chooses the independent route—under the seven percent law—the task of obtaining the required number of signatures for his nominating petition becomes horrendous.[17]

The costs of running as an independent candidate in Ohio, leaving aside the physical difficulty of securing the necessary number of signatures, may well be astronomical. The less affluent candidate, for this reason alone, has been legislatively eliminated as a political competitor. "We conclude that a State violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence of the voter * * * an electoral standard." *Harper v. Virginia Bd. of Elections*, 383 U.S. 663, 666 (1966). That is in effect what Ohio has done here. The right to run for office has been taken from the lower-income putative independent candidate because of the unduly burdensome signature gathering requirement imposed by the major political parties. And all of this in spite of the emphatic injunction that the measure of a man's rights should never be determined by the size of his bankroll. *Douglas v.*

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[16] Since appellant is challenging the constitutionality of a statute he has the unquestioned right to test all of its possible applications and is not limited to the record of the case at bar. *Smith v. California*, 361 U.S. 147, 151 (1959); *Thornhill v. Alabama*, 310 U.S. 88, 97, 98 (1940); *NAACP v. Button*, 371 U.S. 415, 432 (1963). See footnote 1, *supra*.

[17] On a state scale, securing signatures equal to at least seven percent of the last vote cast for governor is prohibitive. An independent candidate for governor in 1966 needed 218,187 valid signatures to get on the ballot. (See Appendix 1 to this brief.) A party candidate running in the primary for state office qualifies with 1,000 names. Section 3513.05, Ohio Revised Code.

California, 372 U.S. 353, 355 (1963); *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963); *Griffin v. Illinois*, 351 U.S. 12, 19 (1956).

IV.

THIS CASE SHOULD NOT BE REGARDED AS MOOT.

A. The Relief Requested By the Appellant Was Clearly Proper.

Appellant asked the courts below to hold that the seven per cent statute was invalid and to reinstate the former one per cent requirement. A case directly in point indicates this was proper relief to seek. In *People ex rel. Hotchkiss v. Smith*, 206 N.Y. 231, 99 N.E. 568 (1912) the New York Court of Appeals after striking an unreasonably high requirement for independent candidates issued a writ of mandamus declaring:

> This Court had no power to prescribe the number of voters for independent nominations; but, having held that the statutes which require an excessive number of signatures to an independent certificate are unconstitutional and void, we must go back to the first law on the subject which, in our opinion, complies with the requirements of the Constitution. 99 N.E. at 572.

A return to the former law upon a finding that a successor law is unconstitutional is well established practice. *United States ex rel. Hoffman v. Quincy*, 4 Wall. (U.S.) 535, 18 L.ed. 403 (1867); *Bd. of Elections for Franklin County v. State, ex rel. Schneider*, 128 Ohio St. 273, 191 N.E. 115 (1934); *State v. Junkin*, 158 Mich. 88, 122 N.W. 473 (1909); *State v. O'Leary*, 115 P. 204 (Mont. Sup. Ct., 1911).

B. The Subject Matter of This Case Is of Continuing Public Interest.

Where interests of a public character are involved under conditions that may immediately be repeated, thus giving the litigation a continuing character, the mere fact that the particular subject matter of the instant case has expired does not render the case moot. *Boggers v. Berry Corporation*, 233 F. 2d 389, 391 (9th Cir. 1956); *Meyers v. Jay Street Connecting Railroad*, 288 F. 2d 356, 359 (2nd Cir. 1961). *Cf. Carroll v. Commissioners of Princess Anne*, U.S. , 21 L.ed 2d 325 (November 19, 1968).

Election cases have frequently been considered on appeal though the immediate election has been held. 132 ALR 1185, 1190, with copious citations. A case closely in point is *Carroll v. Schneider*, 211 Ark. 538, 201 S.W. 2d 221 (1947). An independent candidate brought a mandamus action asking the Court to order his name to be placed on the ballot. The Arkansas Supreme Court, which considered the case after the election, said:

> It is urged, however, that the case is now moot, and should be dismissed for that reason. It is moot in the sense that we cannot now afford appellant petitioner any relief, but it is not moot in the sense that it is important to decide a practical question of great public interest, which may arise again in any future election. 201 S.W. 2d at 224.

C. There Is a Critical Need for This Court to Act Now to Establish Guidelines for the Legislature and Courts.

At stake here is much more than the constitutionality of Ohio's seven percent statute for independent candidates. Its invalidity leads to the important question: What regulation should take its place?

Ohio's history offers this court the opportunity of setting a ceiling as to what the maximum permissible regulation should be. Based on Ohio's experience any classification in excess of the historically tested one percent is unduly burdensome *on its face*. Yet it is quite possible—indeed probable—that if the seven percent statute is stricken and no ceiling adopted by this Court, the Ohio legislature will adopt a five percent or four percent standard in its stead despite the fact that all arguments advanced here against the seven percent statute would be equally telling against the new regulation. (Thus, despite this court's holding in *Williams v. Rhodes, supra*, Ohio's Secretary of State has proposed a ten percent requirement for new political parties—a figure twice as high as any other state's requirements—and at last report the Ohio Senate Committee on elections is agreed on a seven percent requirement. Yet as this Court noted in *Williams v. Rhodes* at footnote 9 to the majority opinion: "Forty-two states require third parties to obtain the signatures of only 1% or less of the electorate in order to appear on the ballot. It appears that no significant problem has arisen in these states which have relatively lenient requirements for obtaining ballot position.")

For these reasons, appellant respectfully urges this Court to go beyond a mere voiding of the seven per cent statute and to establish the one percent standard as a ceiling.

D. The Appellant Deserves Relief From This Court.

Appellant has vigorously prosecuted his case. The docket entries in the Joint Appendix (A 1, 2, 27, 28, 30, 31) show that he took every step he could to secure the relief he sought. But despite his best efforts, Appellant was continually frustrated in his efforts to vindicate his

constitutional rights. He prays that his frustration will be ended here.

CONCLUSION.

The importance of this case is great. At issue is a matter that has to do with nothing less than the quality of political life in Ohio. The Court can act here to insure that Ohio's election process is open to all points of view and candidates.

In a time such as this when dissent seems often to lead to bloody confrontations and street battles, it is essential that all methods of peaceful, lawful dissent be kept as open as possible. All our citizens must be able to feel that the political process offers them hope of airing and rectifying their grievances. For far too long Ohio has made its political process the exclusive preserve of the two major parties thereby increasing the alienation felt by many of its citizens.

Respectfully submitted,

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APPENDIX

APPENDIX 1.

VOTE CAST IN OHIO FOR PRESIDENT, GOVERNOR AND SECRETARY OF STATE AT THE PRESIDENTIAL AND STATE ELECTIONS FROM 1802 TO 1966, INCLUSIVE.

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1802	Governor	Edward Tiffin	Republican	4,564	4,564
1803*	Secy of State	Wm Creighton Jr	Republican		
1804	President	Thomas Jefferson	Republican	2,593	
		Charles C Pinckney	Federalist	364	
		Scattering		256	3,213
1804	Governor	Edward Tiffin	Republican	4,781	4,781
1806	Governor	Return J Meigs Jr	Federalist	5,550	
		Nathaniel Massie	Republican	4,757	10,307
1808	President	James Madison	Republican	5,645	
		Charles C Pinckney	Federalist	1,174	6,819
1808	Governor	Samuel Huntington	Republican	7,293	
		Thomas Worthington	Republican	5,001	
		Thomas Kirker	Republican	3,997	16,291
1808*	Secy of State	Jeremiah McLene			
1810	Governor	Return J Meigs Jr	Republican	9,924	
		Thomas Worthington	Republican	7,731	17,655
1812	President	James Madison	Republican	7,420	
		DeWitt Clinton	Federalist	4,301	10,721
1812	Governor	Return J Meigs Jr	Federalist	11,859	
		Thomas Scott	Republican	7,903	19,762
1814	Governor	Thomas Worthington	Republican	15,879	
		Othniel Looker	Federalist	6,171	22,050
1816	President	James Monroe	Republican	3,129	
		Rufus King	Federalist	591	3,719
1816	Governor	Thomas Worthington	Republican	22,931	
		James Dunlap	Republican	6,295	
		Ethan A Brown	Federalist	1,607	30,833
1818	Governor	Ethan A Brown	Republican	30,194	
		James Dunlap	Republican	8,025	38,219
1820	President	James Monroe	Democrat	7,164	
		John Q Adams	Opposition	2,215	9,379
1820	Governor	Ethan A Brown	Democrat	34,846	
		Jeremiah Morrow	Democrat	9,424	
		William H Harrison	Democrat	4,340	
		Scattering		250	48,860
1821	Governor	Jeremiah Morrow	Democrat	26,071	
		Allen Trimble	Federalist	22,809	
		William W. Irvin	Democrat	11,060	60,000

* From 1803 to 1850 the Secretary of State was elected by the General Assembly.

† The Democrat party of today claims lineal descent from the first Republican party with President Jefferson as its founder. Authorities differ as to the date when the party dropped the name Republican and assumed that of Democrat, it being ascribed to various dates between 1803 and 1820.

‡ Political parties were disorganized at the time of the election of John Q. Adams. He claimed to be a Republican as Jefferson but his doctrines were decidedly Federalistic. The opposition to his administration took the name of Democrat, and elected Andrew Jackson as President in 1828.

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1824	President	Andrew Jackson	Democrat	18,489	
		John Q. Adams	Coalition	12,280	
		Henry Clay	Democrat	19,255	50,024
1824	Governor	Jeremiah Morrow	Democrat	19,526	
		Allen Trimble	N. Republican	17,108	36,634
1826	Governor	Allen Trimble	N. Republican	21,475	
		John Bigger	Democrat	4,114	
		Alex Campbell	Republican	4,765	
		Benjamin Tappan		4,192	
		Scattering		187	34,733
1828	President	Andrew Jackson	Democrat	67,597	
		John Q. Adams	N. Republican	61,396	130,993
1828	Governor	Allen Trimble	N. Republican	53,971	
		John W. Campbell	Democrat	51,951	
		Scattering		112	106,034
1830	Governor	Duncan McArthur	N. Republican	49,668	
		Robert Lucas	Democrat	40,186	
		Scattering		226	90,080
1831*	Sec'y of State	Moses H. Kirby	Whig		
1832	President	Andrew Jackson	Democrat	81,240	
		Henry Clay	N. Republican	76,553	
		William Wirt	Anti Mason	509	158,294
1832	Governor	Robert Lucas	Democrat	71,251	
		Darius Lyman	Whig	65,185	
		Scattering		11	136,447
1834	Governor	Robert Lucas	Democrat	70,758	
		James Findlay	Whig	67,414	
		Scattering		15	138,187
1835*	Sec'y of State	Benjamin Hinkson			
1836	President	Martin Van Buren	Democrat	30,255	
		Wm. H. Harrison	Whig	104,918	
		Scattering		2,137	137,310
1838	Governor	Joseph Vance	Whig	92,206	
		Eli Baldwin	Democrat	86,135	
		Scattering		203	178,362
1840*	Sec'y of State	Carter B. Harlan	Democrat		
1838	Governor	Wilson Shannon	Democrat	101,886	
		Joseph Vance	Whig	102,146	
		Scattering		7	210,039
1840	President	Wm. H. Harrison	Whig	148,157	
		Martin Van Buren	Democrat	124,782	
		James G. Birney	Liberty	809	273,842
1842	Governor	Thomas Corwin	Whig	143,442	
		Wilson Shannon	Democrat	129,813	
		Scattering		8	274,263
1844*	Sec'y of State	William Trevitt	Democrat		
1845*	Sec'y of State	John Shane	Whig		
1842	Governor	Wilson Shannon	Democrat	116,124	
		Thomas Corwin	Whig	117,902	
		Leicter King	Abolitionist	3,114	
		Scattering		40	241,880
1844	President	James K. Polk	Democrat	149,061	
		Henry Clay	Whig	155,113	
		James G. Birney	Liberty	8,050	312,224
1844	Governor	Mordecai Bartley	Whig	146,333	
		David Tod	Democrat	145,062	
		Leister King	Abolitionist	8,808	
		Scattering		11	300,214

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1844	Sec'y of State	Samuel Galloway			
1845	Governor	William Bebb	Whig	118,869	
		David Tod	Democrat	116,484	
		Samuel Lewis	Abolitionist	10,797	
		Scattering		46	246,196
1848	President	Zachary Taylor	Whig	138,359	
		Lewis Cass	Democrat	154,775	
		Martin Van Buren	Free Soil	35,342	328,479
1849	Governor	Seabury Ford	Whig	148,736	
		John B. Weller	Democrat	148,465	
		Scattering		742	297,943
1850	Governor	Reuben Wood	Democrat	133,043	
		William Johnston	Whig	121,103	
		Edward Smith	Abolitionist	13,241	267,943
1850	Sec'y of State	Henry W. King			
1851	Governor	Reuben Wood	Democrat	140,033	
		Samuel F. Vinton	Whig	119,548	
		Samuel Lewis	Abolitionist	19,499	
		Scattering		62	282,182
1851	Sec'y of State	William Trevitt	Democrat	145,536	
		Earl Bill	Whig	120,256	
		Henry W. King	Free Soil	15,268	281,060
1852	President	Franklin Pierce	Democrat	168,933	
		Winfield Scott	Whig	152,521	
		John P. Hale	Free Soil	31,732	353,186
1853	Governor	William Medill	Democrat	147,669	
		Nelson Barrere	Whig	85,257	
		Samuel Lewis	Abolitionist	50,146	283,868
1853	Sec'y of State	William Trevitt	Democrat	151,818	
		Nelsoff Van Vorhes	Whig	97,500	
		William Graham	Free Soil	33,518	
		Scattering		409	283,245
1855	Governor	Salmon P. Chase	Republican	146,220	
		William Medill	Democrat	135,818	
		Allen Trimble	American	24,276	302,063
1855	Sec'y of State	James H. Baker	Rep. and Am.	168,124	
		William Trevitt	Democrat	133,641	302,165
1856	President	James Buchanan	Democrat	170,874	
		John C. Fremont	Republican	187,497	
		Millard Fillmore	American	28,126	386,497
1857	Governor	Salmon P. Chase	Republican	160,168	
		H. B. Payne	Democrat	159,065	
		P. Van Trump	American	10,272	329,505
1857	Sec'y of State	Addison P. Russell	Republican	161,857	
		Jacob Reinhard	Democrat	159,421	
		C. L. Allen	American	10,591	
		Scattering		278	331,917
1858	Governor	William Dennison	Republican	184,557	
		Rufus P. Ranney	Democrat	171,226	355,783
1859	Sec'y of State	Addison P. Russell	Republican	184,819	
		Jacob Reinhard	Democrat	170,400	355,219
1860	President	Abraham Lincoln	Republican	231,809	
		Stephen A. Douglas	Ind. Democrat	187,421	
		John Bell	Const. Union	12,194	
		John C. Breckenridge	Democrat	11,405	
		Gerrit Smith	Abolitionist	116	442,945
1861	Governor	David Tod	Republican	288,477	
		Hugh J. Jewett	Democrat	151,794	
		Scattering		103	440,374

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS; ETC.—(Continued)

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1861	Sec'y of State	Benjamin R Cowan	Republican	207,392	
		William W Armstrong	Democrat	151,912	
		Scattering		181	359,445
1862	Sec'y of State	William W Armstrong	Democrat	184,315	
		Wilson S Kennon	Republican	178,755	363,070
1863	Governor	John Brough	Republican	288,374	
		C L Vallandigham	Democrat	187,492	475,866
1864	President	Abraham Lincoln	Republican	265,654	
		George B McClellan	Democrat	205,599	471,253
1864	Sec'y of State	William Henry Smith	Republican	237,210	
		William W Armstrong	Democrat	182,439	419,649
1865	Governor	Jacob D Cox	Republican	223,631	
		George W Morgan	Democrat	193,797	
		Scattering		360	417,790
1866	Sec'y of State	William Henry Smith	Republican	256,302	
		Benjamin Lafevre	Democrat	213,606	469,908
1867	Governor	R B Hayes	Republican	243,605	
		A G Thurman	Democrat	240,622	484,227
1868	President	U S Grant	Republican	280,223	
		Horatio Seymour	Democrat	238,606	518,829
1868	Sec'y of State	Isaac R Sherwood	Republican	267,065	
		Thomas Hubbard	Democrat	249,682	516,747
1869	Governor	R B Hayes	Republican	238,082	
		G H Pendleton	Democrat	228,581	
		Samuel Scott	Prohibition	629	465,292
1870	Sec'y of State	Isaac R Sherwood	Republican	221,709	
		William Heisley	Democrat	205,015	
		Jay Odell	Prohibition	2,863	429,587
1871	Governor	Edward F Noyes	Republican	238,273	
		George W McCook	Democrat	218,105	
		Gideon T Stewart	Prohibition	4,084	460,462
1872	President	U S Grant	Republican	281,852	
		Horace Greeley	Dem and Lib	244,321	
		James Black	Temperance	2,100	
		Charles O'Connor	Democrat	1,163	
		Scattering		162	529,598
1872	Sec'y of State	Allen T Wickoff	Republican	263,910	
		Aquila Wiley	Democrat	251,785	
		F Schumacher	Prohibition	2,045	519,760
1873	Governor	Edward F Noyes	Republican	215,857	
		William Allen	Democrat	214,654	
		Gideon T Stewart	Prohibition	10,378	
		Isaac C Collins		10,109	448,978
1874	Sec'y of State	Allen T Wickoff	Republican	221,204	
		William Bell Jr	Democrat	238,406	
		John R Buchtel	Prohibition	7,815	467,425
1875	Governor	R B Hayes	Republican	297,811	
		William Allen	Democrat	293,279	
		Jay Odell	Prohibition	1,593	
		Scattering		17	592,700
1876	President	R B Hayes	Republican	330,698	
		Samuel J Tilden	Democrat	323,182	
		G Clay Smith	Prohibition	1,636	
		Peter Cooper	Greenback	4,507	
		Scattering		1,188	660,221
1876	Sec'y of State	Milton Barnes	Republican	317,636	
		William Bell Jr	Democrat	311,220	
		E S Chapman	Prohibition	1,863	630,939

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1877	Governor	William H. West	Republican	289,105	
		Richard M. Bishop	Democrat	201,625	
		Lewis H. Bond		12,489	
		Stephen Johnson		16,912	
		Henry A. Thompson	Prohibition	4,836	554,967
1878	Secy of State	Milton Barnes	Republican	274,120	
		David R. Page	Democrat	270,966	
		Andrew Roy	Greenback	38,332	
		Jeremiah N. Robinson	Prohibition	5,682	589,100
1879	Governor	Charles Foster	Republican	336,261	
		Thomas Ewing	Democrat	319,132	
		Gideon T. Stewart	Prohibition	4,145	
		A. Sanders Piatt	Greenback	9,072	
		John Hood		547	669,157
1880	President	James A. Garfield	Republican	375,048	
		Winfield S. Hancock	Democrat	340,821	
		James B. Weaver	Greenback	6,456	
		Neal Dow	Prohibition	2,616	
		Scattering		26	724,967
1880	Secy of State	Charles Townsend	Republican	362,021	
		William Lang	Democrat	343,016	
		Charles A. Lloyd	Greenback	6,786	
		William H. Doan	Prohibition	2,815	
		Scattering		1,548	716,186
1881	Governor	Charles Foster	Republican	312,735	
		John W. Bookwalter	Democrat	288,426	
		Abraham R. Ludlow	Prohibition	16,597	
		John Seitz	Greenback	6,350	
		Scattering		138	624,226
1882	Secy of State	Charles Townsend	Republican	297,759	
		James W. Newman	Democrat	316,824	
		F. Schumacher	Prohibition	12,202	
		George L. Hale	Greenback	5,345	
		Scattering		9	632,189
1883	Governor	Joseph B. Foraker	Republican	347,104	
		George Hoadley	Democrat	339,693	
		F. Schumacher	Prohibition	8,362	
		Charles Jenkins	Greenback	2,937	
		Scattering		3,154	721,510
1884	President	James G. Blaine	Republican	400,082	
		Grover Cleveland	Democrat	368,280	
		John P. St. John	Prohibition	11,069	
		Benj. F. Butler	Greenback	5,179	
		Scattering		2,549	787,159
1884	Secy of State	James S. Robinson	Republican	391,597	
		James W. Newman	Democrat	380,353	
		Peter M. Harold	Union Labor	3,699	
		Evan J. Morris	Prohibition	8607	
		Scattering		1,657	786,713
1885	Governor	Joseph B. Foraker	Republican	359,281	
		George Hoadley	Democrat	341,850	
		Adna B. Leonard	Prohibition	28,081	
		John W. Northrop	Greenback	2,001	
		Scattering		2,774	733,967
1886	Secy of State	James S. Robinson	Republican	341,095	
		John McBride	Democrat	329,314	
		Henry B. Smith	Prohibition	28,982	
		Charles Bonsall	Greenback	2,010	
		Scattering		2,832	704,233
1887	Governor	Joseph B. Foraker	Republican	336,334	
		Thomas E. Powell	Democrat	333,203	
		John Seitz	Union Labor	24,711	
		Morris Sharp	Prohibition	29,700	
		Scattering		2,820	746,970

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year Elected	Office	Name of Candidate	Politics	Number of votes each received	Total
1888	President	Benjamin Harrison	Republican	416,054	
		Grover Cleveland	Democrat	396,455	
		Clinton B. Fiske	Prohibition	24,356	
		Alson J. Streeter	Union Labor	5,429	
		Scattering		1,580	841,941
1885	Sec'y of State	Daniel J. Ryan	Republican	416,510	
		Boston G. Young	Democrat	395,522	
		Walter S. Payne	Prohibition	24,618	
		George F. Ebner	Union Labor	5,452	
		Scattering		1,859	841,941
1889	Governor	Joseph B. Foraker	Republican	368,337	
		James E. Campbell	Democrat	379,424	
		John B. Helwig	Prohibition	25,306	
		John H. Rhodes	Union Labor	1,048	
		Scattering		195	774,721
1890	Sec'y of State	Daniel J. Ryan	Republican	363,545	
		Thaddeus E. Cromley	Democrat	352,379	
		Melanchton C. Lockwood	Prohibition	23,812	
		Ezebiel T. Curtis	Union Labor	3,232	
		Scattering		470	742,180
1891	Governor	William McKinley, Jr.	Republican	386,294	
		James E. Campbell	Democrat	363,228	
		John J. Ashenhurst	Prohibition	30,330	
		John J. Seitz	People's	23,472	
		Scattering		2	795,631
1892	President	Benjamin Harrison	Republican	405,183	
		Grover Cleveland	Democrat	404,115	
		James B. Weaver	People's	16,830	
		John Bidwell	Prohibition	20,062	
		Scattering		11,461	865,651
1892	Sec'y of State	Samuel M. Taylor	Republican	402,540	
		William A. Taylor	Democrat	401,451	
		Solon C. Thayer	People's	14,514	
		George L. Case	Prohibition	25,885	844,430
1893	Governor	William McKinley	Republican	451,847	
		Lawrence T. Neal	Democrat	352,547	
		Gideon P. Macklin	Prohibition	22,406	
		Edward J. Bracken	People's	13,563	
		Scattering		11,241	855,604
1894	Sec'y of State	Samuel M. Taylor	Republican	411,988	
		Milton Turner	Democrat	276,902	
		Mark G. McCaslin	Prohibition	23,237	
		Charles R. Martin	People's	43,633	
		Scattering		1	755,641
1895	Governor	Asa S. Bushnell	Republican	421,141	
		James E. Campbell	Democrat	334,210	
		Jacob S. Coxey	People's	37,623	
		Seth H. Ellis	Prohibition	21,264	
		William Watkins	Socialist Labor	1,867	
		Scattering		1	817,469
1896	President	William McKinley	Republican	525,991	
		William J. Bryan	Democrat	474,882	
		William J. Bryan	People's	7,013	
		Joshua Levering	Prohibition	5,068	
		Charles E. Bentley	National Party	2,716	
		Charles H. Matchett	Socialist Labor	1,163	
		John M. Palmer	National Dem.	1,839	1,014,231
1897	Sec'y of State	Charles Kinney	Republican	333,000	
		Clinton A. White	Democrat	472,462	
		Samuel H. Rockhill	Prohibition	3,468	
		Wesley C. Bates	National Party	3,185	
		Daniel W. Wallace	Socialist Labor	1,244	1,005,359

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year Elected	Office	Name of candidate	Politics	Number of votes each received	Total
1897	Governor	Asa S. Bushnell	Republican	429,415	
		Horace L. Chapman	Democrat	401,750	
		John C. Holiday	Prohibition	7,555	
		Jacob Sechler Coxey	People's	6,276	
		Julius Dexter	National Dem.	1,592	
		William Watkins	Socialist Labor	4,240	
		Samuel J. Lewis	Negro Protec.	422	
		John Richardson	Liberty	3,125	854,480
1898	Secy of State	Charles Kinney	Republican	406,213	
		Upton K. Guthrey	Democrat	347,074	
		Thomas Brown	Prohibition	7,589	
		John F. Flynn	Socialist Labor	3,793	
		James A. Craft	Union Reform	10,813	775,982
1899	Governor	George K. Nash	Republican	417,149	
		John R. McLean	Democrat	365,170	
		Seth H. Ellis	Union Reform	2,744	
		George M. Hammell	Prohibition	5,825	
		Robert Bandlow	Socialist Labor	2,434	
		Samuel M. Jones		100,721	928,043
1900	President	William McKinley	Republican	543,[illegible]9	
		William J. Bryan	Democrat	474,[illegible]	
		Seth H. Ellis	Union Reform	4,[illegible]34	
		John G. Woolley	Prohibition	10,[illegible]	
		Joseph F. Wallace	Socialist Labor	1,[illegible]55	
		Wharton Barker	People's	[illegible]5	
		Eugene [illegible] Debs	Soc. Dem.	6,347	1,042,[illegible]75
1900	Secy of State	Lewis C. Laylin	Republican	541,552	
		Henry H. McFadden	Democrat	474,078	
		Frank Frankenberg	Union Reform	4,047	
		J. Knox Montgomery	Prohibition	8,983	
		Samuel Barton	Socialist Labor	1,707	
		Louise F. Hemse	Soc. Dem.	6,332	1,035,650
1901	Governor	George K. Nash	Republican	450,042	
		James Kilbourne	Democrat	365,525	
		[illegible]. Pinney	Prohibition	8,978	
		John Richardson	Union Reform	2,718	
		John H. T. Juergens	Socialist Labor	2,944	
		Harry C. Thompson	Socialist	7,552	837,759
1902	Secy of State	Lewis C. Laylin	Republican	450,121	
		Herbert S. Bigelow	Democrat	361,720	
		Andrew L. White	Prohibition	12,333	
		Max S. Hayes	Socialist	14,270	
		Theodore Adams	Socialist Labor	2,981	
		Scattering			841,427
1903	Governor	Myron T. Herrick	Republican	[illegible]0	
		Tom L. Johnson	Democrat	45	
		Nelson D. Creamer	Prohibition	[illegible]93	
		Isaac Cowan	Socialist	23,457	
		John D. Goetze	Socialist Labor	[illegible]75	886,551
1904	President	Theodore Roosevelt	Republican	600,095	
		Alton B. Parker	Democrat	344,674	
		Silas C. Swallow	Prohibition	14,332	
		Eugene V. Debs	Socialist	36,260	
		Charles H. Corregan	Socialist Labor	2,351	
		Thomas E. Watson	People's Party	1,[illegible]42	[illegible]4,[illegible]54
1904	Secy of State	Lewis C. Laylin	Republican	587,595	
		Alfred P. Sandles	Democrat	337,[illegible]74	
		Harold King Rockhill	Prohibition	19,233	
		Alfred J. Swing	Socialist	33,[illegible]43	
		John H. T. Juergens	Social Labor	2,[illegible]	
		John J. Allen	People's Party	1,[illegible]41	981,[illegible]60
1905	Governor	Myron T. Herrick	Republican	450,[illegible]11	
		John M. Pattison	Democrat	417,[illegible]04	
		Isaac Cowan	Socialist	17,[illegible]05	
		Aaron S. Watkins	Prohibition	13,[illegible]01	
		John J. Seitger	Socialist Labor	[illegible],[illegible]08	918,[illegible]65

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS, ETC.—(Continued)

Year of Election	Office	Name of candidate	Politics	Number of votes cast for each candidate	Total
1908	Secretary of State	Samuel A. Hoskins	Democrat	331,073	
		Carmi A. Thompson	Republican	348,777	
		Otis J. Hostetler	Socialist	18,812	
		Alfred F. Hughes	Prohibition	12,310	
		Max Eisenberg	Socialist Labor	2,211	713,183
1909	President	William H. Taft	Republican	572,322	
		William J. Bryan	Democrat	477,709	
		Eugene V. Debs	Socialist	41,937	
		Eugene W. Chafin	Prohibition	21,866	
		Thomas Hisgen	Independence	614	
		Thomas L. Watson	People's Party	1,063	
		August Gillhaus	Socialist Labor	1,111	1,117,621
1909	Governor	Andrew L. Harris	Republican	591,211	
		Judson Harmon	Democrat	497,509	
		Robert Bandlow	Socialist	38,171	
		John D. Martin	Prohibition	19,001	
		Andrew J. Hite	Independence	1,011	
		John Kinder	Socialist Labor	1,101	1,148,103
1909	Secretary of State	Carmi A. Thompson	Republican	590,211	
		J. H. Newman	Democrat	498,211	
		Arthur D. Hollenbaugh	Socialist	41,001	
		Henry C. Haskell	Prohibition	19,011	
		Albert Bagwell	Independence	1,001	
		Timothy Crabtree	People's Party	1,011	
		James Pyle	Socialist Labor	1,011	1,150,456
1910	Governor	Judson Harmon	Democrat	511,211	
		Warren G. Harding	Republican	511,211	
		Frank Clifford	Socialist	28,211	
		Henry A. Thompson	Prohibition	11,211	
		J. B. Mellor	Socialist Labor	2,211	914,211
1910	Secretary of State	Chas. H. Grosvenor	Democrat	511,211	
		Granville W. Mooney	Republican	511,211	
		Edward Hassenauer	Socialist	28,211	
		Alfred H. Shatton	Prohibition	11,211	
		William H. Fox	Socialist Labor	2,211	914,211
1911	President	Woodrow Wilson	Democrat	424,211	
		William H. Taft	Republican	348,211	
		Eugene V. Debs	Socialist	28,211	
		Eugene W. Chafin	Prohibition	11,211	
		Arthur E. Reimer	Socialist Labor	2,211	
		Theodore Roosevelt	Progressive	214,211	1,028,211
1911	Governor	James M. Cox	Democrat	511,211	
		Robert B. Brown	Republican	511,211	
		A. E. Rothgeb	Socialist	28,211	
		Daniel A. Poling	Prohibition	11,211	
		John Kinder	Socialist Labor	2,211	
		Arthur E. Reimer	Progressive	214,211	1,028,211
1911	Secretary of State	Chas. H. Grosvenor	Democrat	511,211	
		Thomas J. Duffy	Republican	511,211	
		C. C. Crist	Socialist	28,211	
		A. Dobson	Prohibition	11,211	
		William H. Fox	Socialist Labor	2,211	
		John E. Gilbert	Progressive	214,211	1,028,211
1912	Governor	James M. Cox	Democrat	511,211	
		Frank B. Willis	Republican	511,211	
		James R. Maurer	Socialist	28,211	
		[illegible]	[illegible]	[illegible]	
1912	Secretary of State	J. H. Goeller	Democrat	511,211	
		Carl C. Crist	Republican	511,211	
		[illegible]	[illegible]	[illegible]	
		[illegible]	[illegible]	[illegible]	
1912	President	Charles E. Hughes	Republican	511,211	
		Woodrow Wilson	Democrat	511,211	
		Allen L. Benson	Socialist	28,211	
		[illegible]	[illegible]	[illegible]	

VOTE CAST IN OHIO AT PRESIDENTIAL AND STATE ELECTIONS.
ETC.—(Continued.)

Year of Election	Office	Name of Candidate	Politics	Number of votes each received	Total
1910	Governor	Frank B. Willis	Republican	161,697	
		James M. Cox	Democrat	168,778	
		Tom Clifford	Socialist	42,909	
		John H. Dickason	Prohibition	7,181	1,176,075
1910	Secretary of State	Carl G. Hildebrant	Republican	395,911	
		William D. Fulton	Democrat	644,100	
		W. T. Bragg	Socialist	98,176	
		Sylvanus E. Fox	Prohibition	6,811	1,145,998
1910	Governor	James M. Cox	Democrat	690,901	
		Frank B. Willis	Republican	676,451	900,861
1910	Secretary of State	William D. Fulton	Democrat	611,644	
		Harvey C. Smith	Republican	611,234	988,878
1920	President	James M. Cox	Democrat	1,000,011	
		Warren G. Harding	Republican	1,181,011	
		Eugene V. Debs	Socialist	61,181	
		P. S. Reynolds	Single Tax	1,181	2,021,111
1912	Governor	A. V. Donahey	Democrat	618,011	
		Harry L. Davis	Republican	1,019,011	
		Frank D. Hamilton	Socialist	61,981	
		Carl D. Fowler	Single Tax	1,811	2,111,111
1912	Secretary of State	William D. Fulton	Democrat	181,111	
		Harvey C. Smith	Republican	1,118,111	
		Louise Marbury	Socialist	61,811	
		Joseph Brennan	Single Tax	1,111	1,111,111
1912	Governor	Lewis A. Thompson	Republican	881,111	
		A. V. Donahey	Democrat	811,111	
		C. Hoosting		111	1,111,111
1912	Secretary of State	Charles H. Brown	Republican	811,111	
		William D. Fulton	Democrat	881,111	1,111,111
1912	President	John A. Davis	Democrat	811,111	
		Calvin Coolidge	Republican	1,111,111	
		Robert M. LaFollette	Progressive	111,111	
		W. J. Wallace	Socialist Labor	1,111	
		Frank T. Johns	Prohibition	1,111	2,111,111
1914	Governor	A. V. Donahey	Democrat	1,111,111	
		Harry L. Davis	Republican	811,111	
		Frank D. Allen	Socialist	61,111	
		Ignatius J. Costin	Socialist Labor	1,111	1,111,111
1914	Secretary of State	J. H. Hopkins	Democrat	811,111	
		Clark H. Brown	Republican	1,111,111	
		Arthur Prosser	Socialist	61,111	
		Morris Pearl	Socialist Labor	1,111	1,111,111
1916	Governor	A. V. Donahey	Democrat	1,111,111	
		Harry L. Davis	Republican	1,111,111	
		Joseph E. Smith	Socialist	61,111	
		Frank J. Sedlak	Socialist Labor	1,111	2,111,111
1916	Secretary of State	Clarence J. Brown	Republican	1,111,111	
		Charles H. Graves	Democrat	1,111,111	
		Harry Schneider	Socialist	61,111	
		W. H. Brown	Socialist Labor	1,111	2,111,111
1916	President	Charles E. Hughes	Republican	1,111,111	
		Woodrow Wilson	Democrat	1,111,111	
		A. L. Benson	Socialist	61,111	
		Frank J. Hanly	Prohibition	1,111	
		J. Frank Hanly	Prohibition	1,111	2,111,111
1918	Governor	Harry L. Davis	Republican	1,111,111	
		James M. Cox	Democrat	1,111,111	
		Joseph E. Smith	Socialist	61,111	
		Frank J. Sedlak	Socialist Labor	1,111	2,111,111

APPENDIX 3.

(Letterhead of)
SECRETARY OF STATE
OHIO

March 17, 1969

Mr. Benjamin B. Sheerer
Rudd, Ober and Miller
Public Square Building
33 Public Square
Cleveland, Ohio 44113

Dear Mr. Sheerer:

We are glad to enclose the results for United States Congressmen cast at the General Election of 1968. You will note that there are some write-in votes in some of the districts, but no *Independents.*

We are sorry to advise that our supply of the printed and bound copies of the 1965-66 Ohio Election Statistics is very nearly depleted. The very best that we can do in this instance is a few copies which are being mailed, under separate cover. The 1967-68 issue is presently in the hands of the printer; however, I am afraid that it will be several months before copies are available for distribution. Your name has been placed on file to receive a supply at such later date. Unfortunately, we cannot definitely promise 40 copies of the above publication (1967-68 edition) but we will come as close to that number as possible.

Very truly yours,

TED W. BROWN
Secretary of State

- - - Compiled by TED W. BROWN, Secretary of State - - -

DISTRICT VOTE FOR REPRESENTATIVES TO CONGRESS, AND
PLURALITIES - GENERAL ELECTION, NOVEMBER 5, 1968

Districts and Counties — Candidates

FIRST DISTRICT	Democrat Karl F. Heiser	Republican *Robert Taft, Jr.
Hamilton (part)	49,830	102,219
Totals	49,830	102,219
Plurality		52,389

SECOND DISTRICT	Republican *Donald D. Clancy	Democrat Don Driehaus
Hamilton (part)	108,157	52,327
Totals	108,157	52,327
Plurality	55,830	

THIRD DISTRICT	Democrat Paul Tipps	Republican *Charles W. Whalen, Jr.
Montgomery (part)	32,012	114,549
Totals	32,012	114,549
Plurality		82,537

FOURTH DISTRICT	Republican *William M. McCulloch	Corbett Lambert (1)
Allen	30,094	
Auglaize	12,679	
Darke	15,776	10
Hardin	9,581	
Mercer	10,331	
Miami	26,1[illegible]	
Montgomery (part)	3,755	
Preble	9,416	
Shelby	11,668	68
Totals	129,435	78
Plurality		

In Hardin County, one vote was cast for each of the following:
Tom Doud
Fred Ewing
Gene Hanson
Harvey Hunsicker, Sr.
Corby Lambett
Samuel Meyer
Robert Milbaugh
Eric Sheldon
(1)

FIFTH DISTRICT	Democrat Louis Richard Batzler	Republican *Delbert L. Latta
Defiance	4,519	9,000
Fulton	2,490	9,231
Henry	2,122	8,608
Lucas (part)	6,994	6,367
Ottawa	4,155	10,467

Districts and Counties	Candidates	
FIRST DISTRICT	Democrat Karl F. Heiser	Republican *Robert Taft, Jr.
Hamilton (part)	49,830	102,219
Totals	49,830	102,219
Plurality		52,389

SECOND DISTRICT	Republican *Donald D. Clancy	Democrat Don Driehaus
Hamilton (part)	108,157	52,327
Totals	108,157	52,327
Plurality	55,830	

THIRD DISTRICT	Democrat Paul Tipps	Republican *Charles W. Whalen, Jr.
Montgomery (part)	32,012	114,549
Totals	32,012	114,549
Plurality		82,537

FOURTH DISTRICT	Republican *William M. McCulloch	Corbett Lambert (1)	
Allen	30,094		In Hardin County, one vote was cast for each of the following: Tom Dowd Fred Ewing Gene Hanson Harvey Hunsicker, Sr. Corby Lambett Samuel Meyer Robert Milbaugh Eric Sheldon (1)
Auglaize	12,679		
Darke	15,776	10	
Hardin	9,581		
Mercer	10,331		
Miami	26,135		
Montgomery (part)	3,755		
Preble	9,416		
Shelby	11,668	68	
Totals	129,435	78	
Plurality			

FIFTH DISTRICT	Democrat Louis Richard Batzler	Republican *Delbert L. Latta
Defiance	4,519	9,000
Fulton	2,490	9,231
Henry	2,122	8,608
Lucas (part)	6,994	6,367
Ottawa	4,155	10,497
Paulding	2,227	5,103
Putnam	2,529	9,067
Sandusky	6,167	15,166
Van Wert	3,212	9,771
Williams	3,356	9,454
Wood	8,113	21,117
Totals	45,884	113,381
Plurality		67,497

DISTRICT VOTE FOR REPRESENTATIVES TO CONGRESS - GENERAL ELECTION - NOVEMBER 5, 1968

Districts and Counties	Candidates	
SIXTH DISTRICT	Republican * William H. Harsha	Democrat Kenneth L. Kirby
Adams	5,116	2,267
Brown	6,599	3,047
Clermont	22,044	8,033
Fayette	7,482	2,139
Hamilton (part)	2,842	887
Highland	9,230	2,618
Lawrence	11,023	7,451
Pike	4,536	3,091
Ross	15,542	3,723
Scioto	23,375	7,708
Totals	107,289	40,964
Plurality	66,325	

SEVENTH DISTRICT	Republican *Clarence J. Brown, Jr.	Democrat Robert E. Cecile
Champaign	8,628	3,570
Clark	30,203	18,529
Greene	23,196	13,909
Logan	10,388	3,955
Marion	14,280	9,385
Montgomery (part)	3,425	3,315
Union	7,461	2,223
Totals	97,581	55,386
Plurality	42,195	

EIGHTH DISTRICT	Democrat Marie Baker	Republican *Jackson E. Betts	James M. Chambers, Jr. (1)
Crawford	5,161	14,784	
Erie	8,243	13,686	
Hancock	4,393	18,488	
Huron	4,817	9,459	
Richland (part)	9,971	22,783	1
Seneca	6,184	16,167	
Wyandot	2,129	6,607	
Totals	40,898	101,974	1
Plurality		61,076	

NINTH DISTRICT	Democrat *Thomas Ludlow Ashley	Republican Ben Marsh
Lucas (part)	85,280	63,290
Totals	85,280	63,290
Plurality	21,990	

TENTH DISTRICT	Democrat Harry B. Crewson	Republican *Clarence E. Miller
Athens	6,504	9,266
Fairfield	7,063	20,993
Gallia	1,860	6,539

.....	.....	.....
Fayette	7,482	2,139
Hamilton (part)	2,842	887
Highland	9,230	2,618
Lawrence	11,023	7,451
Pike	4,536	3,091
Ross	15,542	3,723
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Plurality	21,990	

TENTH DISTRICT	Democrat Harry B. Crewson	Republican *Clarence E. Miller
Athens	6,504	9,266
Fairfield	7,063	20,993
Gallia	1,860	6,539
Hocking	3,189	5,199
Jackson	2,652	7,459
Meigs	2,067	5,770
Monroe	2,541	2,965
Morgan	1,203	3,766
Muskingum (part)	8,103	15,634
Noble	1,442	2,991
Perry	3,385	6,827
Vinton	1,395	2,625
Washington	4,282	12,856
Totals	45,686	102,890
Plurality		57,204

DISTRICT VOTE FOR REPRESENTATIVES TO CONGRESS - GENERA ELECTION - NOVEMBER 5, 1968

Districts and Counties — Candidates

ELEVENTH DISTRICT	Republican *J. William Stanton	Democrat Alan D. Wright
Ashtabula	26,202	8,988
Geauga	15,037	3,999
Lake	43,913	13,940
Portage	25,926	9,196
Trumbull (part)	5,245	1,940
Totals	116,323	38,063
Plurality	78,260	

TWELFTH DISTRICT	Republican *Samuel L. Devine	Democrat Herbert J. Pfeifer
Delaware	10,512	4,423
Franklin (part)	90,900	43,790
Morrow	5,252	2,989
Totals	106,664	51,202
Plurality	55,462	

THIRTEENTH DISTRICT	Democrat Adrian F. Betleski	Republican *Charles A. Mosher
Cuyahoga (part)	5,670	11,184
Lorain	31,540	45,669
Medina	7,301	18,323
Summit (part)	15,353	21,982
Totals	59,864	97,158
Plurality		37,294

FOURTEENTH DISTRICT	Republican *William H. Ayres	Lew Cherry (1)	Democrat Oliver Ocasek
Summit (part)	84,561	47	68,889
Totals	84,561	47	68,889
Plurality	15,672		

FIFTEENTH DISTRICT	Richard Stafford (1)	Democrat Russell H. Volkema	Republican *Chalmers P. Wylie
Franklin (part)	454	30,268	82,826
Madison		2,267	7,221
Pickaway	2	3,326	8,452
Totals	456	35,861	98,499
Plurality			62,638

ELEVENTH DISTRICT	Republican *J. William Stanton	Democrat Alan D. Wright
Ashtabula	26,202	8,988
Geauga	15,037	3,999
Lake	43,913	13,940
Portage	25,926	9,196
Trumbull (part)	5,245	1,940
Totals	116,323	38,063
Plurality	78,260	

TWELFTH DISTRICT	Republican *Samuel L. Devine	Democrat Herbert J. Pfeifer
Delaware	10,512	4,423
Franklin (part)	90,900	43,790
Morrow	5,252	2,989
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Plurality	55,462	

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Plurality		37,294

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Summit (part)	84,561	47	68,889
Totals	84,561	47	68,889
Plurality	15,672		

FIFTEENTH DISTRICT	Richard Stafford (1)	Democrat Russell H. Volkema	Republican *Chalmers P. Wylie
Franklin (part)	454	30,268	82,826
Madison		2,267	7,221
Pickaway	2	3,326	8,452
Totals	456	35,861	98,499
Plurality			62,638

SIXTEENTH DISTRICT	Robert Blake (1)	Republican *Frank T. Bow	Robert T. Kendall (1)	Democrat Virgil L. Musser
Mahoning (part)		24,507		11,126
Stark (part)	1	76,988	2	57,790
Totals	1	101,495	2	68,916
Plurality		32,579		

DISTRICT VOTE FOR REPRESENTATIVES TO CONGRESS - GENERAL ELECTION - NOVEMBER 5, 1968

Districts and Counties	Candidates		
SEVENTEENTH DISTRICT	Republican *John M. Ashbrook	Democrat Robert W. Levering	(1) Frank J. Lausche
Ashland	10,926	4,060	
Coshocton	7,370	4,398	
Guernsey	8,378	5,329	
Holmes	3,680	1,787	
Knox	9,891	6,364	
Licking	25,114	14,160	
Muskingum (part)	4,872	1,861	
Richland (part)	2,718	1,558	
Stark (part)	2,768	1,811	
Summit (part)	5,793	4,691	
Tuscarawas (part)	1,114	728	
Wayne	17,524	7,380	1
Totals	100,148	54,127	1
Plurality	46,021		

EIGHTEENTH DISTRICT	Democrat *Wayne L. Hays	Republican James F. Sutherland
Belmont	22,294	12,945
Carroll	4,315	4,255
Columbiana	24,161	17,971
Harrison	4,157	3,402
Jefferson	25,639	12,067
Tuscarawas (part)	16,145	13,107
Totals	96,711	63,747
Plurality	32,964	

NINETEENTH DISTRICT	Joseph Donchess (1)	Robert Hagan (1)	Democrat *Michael J. Kirwan	Republican Donald J. Lewis
Mahoning (part)	1	2	58,630	19,553
Trumbull (part)			43,183	24,810
Totals	1	2	101,813	44,363
Plurality			57,450	

TWENTIETH DISTRICT	Democrat *Michael A. Feighan	Republican J. William Petro
Cuyahoga (part)	72,918	27,827
Totals	72,918	27,827
Plurality	45,091	

TWENTY-FIRST DISTRICT	Republican Charles P. Lucas	Democrat *Louis Stokes
Cuyahoga (part)	28,931	85,509
Totals	28,931	85,509
Plurality		

Ashland	10,926	4,060	
Coshocton	7,370	4,398	
Guernsey	8,378	5,329	
Holmes	3,680	1,787	
Knox	9,891	6,364	
Licking	25,114	14,160	
Muskingum (part)	4,872	1,861	
Richland (part)	2,718	1,558	
Stark (part)	2,768	1,811	
Summit (part)	5,793	4,691	
Tuscarawas (part)	1,114	728	
Wayne	17,524	7,380	1
Totals	100,148	54,127	1
Plurality	46,021		

EIGHTEENTH DISTRICT	Democrat *Wayne L. Hays	Republican James F. Sutherland
Belmont	22,294	12,945
Carroll	4,315	4,255
Columbiana	24,161	17,971
Harrison	4,157	3,402
Jefferson	25,639	12,067
Tuscarawas (part)	16,145	13,107
Totals	96,711	63,747
Plurality	32,964	

NINETEENTH DISTRICT	Joseph Donchess (1)	Robert Hagan (1)	Democrat *Michael J. Kirwan	Republican Donald J. Lewis
Mahoning (part)	1	2	58,630	19,553
Trumbull (part)			43,183	24,810
Totals	1	2	101,813	44,363
Plurality			57,450	

TWENTIETH DISTRICT	Democrat *Michael A. Feighan	Republican J. William Petro
Cuyahoga (part)	72,918	27,827
Totals	72,918	27,827
Plurality	45,091	

TWENTY-FIRST DISTRICT	Republican Charles P. Lucas	Democrat *Louis Stokes
Cuyahoga (part)	28,931	85,509
Totals	28,931	85,509
Plurality		56,578

DISTRICT VOTE FOR REPRESENTATIVES TO CONGRESS - GENERAL ELECTION - NOVEMBER 5, 1968

Districts and Counties	Republican Frances P. Bolton	Democrat *Charles A. Vanik
TWENTY-SECOND DISTRICT		
Cuyahoga (part)	84,975	102,656
Totals	84,975	102,656
Plurality		17,681

Districts and Counties	Republican *William E. Minshall	Democrat James V. Stanton
TWENTY-THIRD DISTRICT		
Cuyahoga (part)	106,852	98,825
Totals	106,852	98,825
Plurality	8,027	

Districts and Counties	Daniel Gleason (1)	Republican *Donald E. Lukens	Democrat Lloyd D. Miller
TWENTY-FOURTH DISTRICT			
Butler		47,816	21,936
Clinton	1	7,492	2,823
Hamilton (part)		14,590	5,572
Montgomery (part)	1	16,809	7,791
Warren		18,643	6,278
Totals	1	105,350	44,400
Plurality		60,950	

* Denotes candidate elected.
(1) Write-in candidate.

OFFICIAL DEMOCRATIC PRIMARY BALLOT

CUYAHOGA COUNTY

a. To vote for a candidate place "X" in the rectangular space at the left of the name of such candidate.
b. If you tear, soil, deface or erroneously mark this ballot return it to the precinct election officials and obtain another ballot.

For United States Senator
(Vote for not more than one)

- FRANK J. LAUSCHE
- JOHN J. GILLIGAN

For Chief Justice of the Supreme Court (Full Term Commencing January 1, 1969)
(Vote for not more than one)

- JOHN C. DUFFY

For Judge of the Supreme Court (Full Term Commencing January 1, 1969)
(Vote for not more than one)

For Judge of the Supreme Court (Full Term Commencing January 2, 1969)
(Vote for not more than one)

- MERRILL D. BROTHERS

For Representative to Congress (21st District)
(Vote for not more than one)

- ANDREW E. ZIOLKOWSKI
- ROBERT W. ANNABLE
- JAMES H. BOYD
- MICHAEL J. CROSSER
- FRANK EVANS
- GEORGE L. FORBES
- LEO A. JACKSON
- EDWARD F. KATALINAS
- FRANK J. KNIOLA
- GERALD J. MARTIN
- JACK P. RUSSELL
- LOUIS STOKES
- GEORGE W. WHITE
- GERALDINE WILLIAMS

For Judge of the Court of Appeals (8th District)
(Full Term Commencing January 1, 1969)
(Vote for not more than one)

For Judge of the Court of Appeals (8th District)
(Full Term Commencing January 2, 1969)
(Vote for not more than one)

- JOSEPH A. ARTL

For Judge of the Court of Appeals (8th District)
(Full Term Commencing January 5, 1969)
(Vote for not more than one)

For Judge of the Court of Appeals (8th District)
(Full Term Commencing February 9, 1969)
(Vote for not more than one)

For Judge of the Court of Appeals (8th District)
(Unexpired Term Ending February 8, 1971)
(Vote for not more than one)

- ROBERT A. DECATUR
- JOHN F. RAY, JR.
- JOHN J. SIBISAN
- JACK G. DAY

For Member of State Central Committee, Man (21st District)
(Vote for not more than one)

- RICHARD L. NORRIS
- LEWIS G. ROBINSON
- LARRY G. SMITH
- JOHN E. BARNES
- LOUIS F. DROZD
- CHARLES L. FLYNN
- THOMAS E. HILL
- LEROY JACKSON

For Member of State Central Committee, Woman (21st District)
(Vote for not more than one)

- LODEAMER THOMPSON
- NAOMI G. WILCOX
- DOROTHY M. ZUPONCIC
- MARY ANN GERACI

For State Representative (41st District)
(Vote for not more than one)

- THOMAS E. HILL

For Judge of the Court of Common Pleas (Full Term Commencing January 1, 1969)
(Vote for not more than one)

- JOHN T. PATTON

For Judge of the Court of Common Pleas (Full Term Commencing January 2, 1969)
(Vote for not more than one)

- RALPH S. LOCHER

For Judge of the Court of Common Pleas (Full Term Commencing January 3, 1969)
(Vote for not more than one)

- NELSON G. KARL
- M. EUGENE FARLEY

For Judge of the Court of Common Pleas (Full Term Commencing January 4, 1969)
(Vote for not more than one)

- GERALD J. CELEBREZZE

For Judge of the Court of Common Pleas (Full Term Commencing January 5, 1969)
(Vote for not more than one)

- FRANCIS J. TALTY

For Judge of the Court of Common Pleas (Full Term Commencing January 6, 1969)
(Vote for not more than one)

For Judge of the Court of Common Pleas (Full Term Commencing January 7, 1969)
(Vote for not more than one)

- JOHN V. CORRIGAN

For Judge of the Court of Common Pleas (Full Term Commencing January 8, 1969)
(Vote for not more than one)

For Judge of the Court of Common Pleas (Full Term Commencing January 9, 1969)
(Vote for not more than one)

- DAVID I. SINDELL
- LEO M. SPELLACY
- RICHARD M. HARMODY

For Judge of the Court of Common Pleas (Full Term Commencing January 10, 1969)
(Vote for not more than one)

- CHARLES B. LAURIE
- EDWARD CORRIGAN

For Judge of the Court of Common Pleas (Full Term Commencing January 11, 1969)
(Vote for not more than one)

- REUBEN M. PAYNE
- EUGENE J. SAWICKI
- DON DeROCCO
- SAMUEL T. GAINES
- WM. T. McKNIGHT

For Judge of the Court of Common Pleas (Full Term Commencing January 12, 1969)
(Vote for not more than one)

- ROBERT H. HANNA
- ARTHUR P. LAMBROS
- FRANK J. GORMAN

For Judge of the Court of Common Pleas (Unexpired Term Ending February 8, 1973)
(Vote for not more than one)

- SAM H. GRIFF
- FRANK V. OPASKAR
- GEORGE P. ALLEN
- JOHN E. CARLIN
- BERNARD B. EASTON

For County Commissioner
(Vote for not more than two)

- RICHARD M. ZWOLENIK
- WILLIAM P. DAY
- DONALD A. OLESKI
- ANTHONY PECYK
- FRANK R. POKORNY
- WILLIAM T. WHITE
- MICHAEL ZONE

For Prosecuting Attorney
(Vote for not more than one)

- JOHN T. CORRIGAN

For Clerk of Court of Common Pleas
(Vote for not more than one)

- EMIL J. MASGAY

For Sheriff
(Vote for not more than one)

- BENJAMIN L. HAYES
- JAMES J. McGETTRICK
- JOSEPH P. MULL
- JOHN E. GALLAGHER

For County Recorder
(Vote for not more than one)

- MARK McELROY

For County Treasurer
(Vote for not more than one)

- FRANK M. BRENNAN

For County Engineer
(Vote for not more than one)

- ALBERT S. PORTER

For Coroner
(Vote for not more than one)

- SAMUEL R. GERBER

For Member of County Central Committee
(Vote for not more than one)

APPENDIX 5.

Ohio Statutes.

89 Ohio Laws 434 (1892), Section 7:

Nominations of candidates for any county, city, township or municipal office, or members of the board of education may be made by nomination papers, signed in the aggregate for each candidate by not less than three hundred qualified electors of the county, or fifty qualified electors of the city, or twenty-five electors of the township, village or school district, respectively; except in counties containing cities of the first and second grade of the first class, such nomination papers shall be signed by petitioners not less in number than one for every fifty persons who voted at the next preceding general election in such county. Nominations of candidates for other offices may be made by nomination papers, signed for each candidate by qualified electors of the state or the district or division for which such candidates are nominated, not less in number than one for every one hundred persons who voted at the next preceding general election in the state or such district or division. * * *

* * * * * *

Section 4785-91, Ohio General Code:

Nominations of candidates for offices, in addition to the nominations made at party primaries, may be made by petitions signed for each candidate by qualified electors of the state or the district or county for which such candidates are nominated, not less in number than one per cent of the qualified electors voting at the next preceding general election for the office of governor in any such county, district, municipality or in the state.

* * * * *

Section 4785-91, Ohio General Code, as amended January 1, 1952:

In addition to nominations of candidates of political parties for election to offices to be voted for at the next following general election, independent candidates for election to offices to be voted at such general election, excepting candidates for presidential electors, may be nominated by nominating petitions. * * *

* * *

Each nominating petition herein provided for, except nominating petitions for candidates provided for in section 4785-90 of the General Code, shall be signed by qualified electors of the state, district, county or municipality in which the candidate designated therein would be a candidate for election as an officer thereof, not less in number than seven per cent of the number of electors who voted for governor at the next preceding general election for the office of governor in the state or in the respective district, county or municipality;

* * * * *

Section 3513.257, Ohio Revised Code:

The nominating petition of an independent candidate for the office of representative to the general assembly, senator of the general assembly, and district representative to congress, shall be signed by not less than seven per cent of the number of electors who voted for governor at the next preceding regular state election for the office of governor in the district. * * *

* * * * *

Section 3513.258, Ohio Revised Code:

The nominating petition of an independent candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney gen

eral, judge of the supreme court, United States senator, and representative at large to congress, shall be signed by not less than seven per cent of the number of electors who voted for governor at the next preceding state election.
* * *

* * * * *

Section 3513.05, Ohio Revised Code:

Each person desiring to become a candidate for a party nomination or for election to an office or position to be voted for at a primary election shall, not later than four p.m. of the ninetieth day before the day of such primary election, file a declaration of candidacy and petition and pay the fee required by section 3513.10 of the Revised Code. Such declaration of candidacy, petition, and all part-petitions shall be filed at the same time as one instrument.
* * *

If the declaration of candidacy declares a candidacy which is to be submitted to electors throughout the entire state, the petition shall be signed by at least one thousand qualified electors who are members of the same political party as the political party of which the candidate is a member, from at least one third of the counties of the state, and such declaration of candidacy and petition shall be filed with the secretary of state; provided that the secretary of state shall not accept or file any such petition appearing on its face to contain the signatures of more than five thousand electors.

* * *

If the declaration of candidacy declares a candidacy which is to be submitted only to electors within a county or a congressional district smaller than a county, the petition shall be signed by at least one hundred qualified electors of such county or district who are members of the same political party as the political party of which the

candidate is a member, or by such electors equal in number to at least five per cent of the number of votes cast for the candidate for governor of the same political party in such county or district at the next preceding regular state election if such five per cent is less than one hundred, and such declaration of candidacy and petition shall be filed with the board of the county; provided that such board shall not accept or file any such petition appearing on its face to contain the signatures of more than five hundred electors.

* * * * *

Section 3517.01, Ohio Revised Code:

A political party within the meaning of Title XXXV of the Revised Code is any group of voters which, at the last preceding regular state election, polled for its candidate for governor in the state at least ten per cent of the entire vote cast for governor or which filed with the secretary of state at least ninety days before an election a petition signed by qualified electors equal in number to at least fifteen per cent of the total vote for governor at the last preceding election, declaring their intention of organizing a political party, the name of which shall be stated in the declaration, and of participating in the next succeeding election. Such petition shall be circulated, signed, verified, and the signatures thereon examined and certified to in the same manner as is required of referendum petitions. No such group of electors shall assume a name or designation which is similar, in the opinion of the secretary of state, to that of an existing political party as to confuse or mislead the voters at an election. When any political party fails to cast ten percent of the total vote cast at an election for the office of governor it shall cease to be a political party.